

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

DAVID MORRIS BARREN,

Plaintiff,

v.

UNITED STATES DEPARTMENT OF  
JUSTICE; UNITED STATES DRUG  
ENFORCEMENT ADMINISTRATION;  
CHARLES J. PETERS, individually and in  
their official capacity; BRIAN AVERI,  
individually and in their official capacity;  
CLIFFORD BROWN, individually and in  
their official capacity; MICHAEL GERACI,  
individually and in their official capacity;  
SUSAN CONINE, individually and in their  
official capacity; DOUG YOUHOUSE,  
individually and in their official capacity;  
WILKINSBURG POLICE DEPARTMENT;  
JOHN HIERONYMUS, individually and in  
their official capacity; and UNKNOWN  
SENIOR ATTORNEY, individually and in  
their official capacity,

Defendants.

Civil Action No. 2:19-cv-97

Judge Nora Barry Fischer/

Magistrate Judge Maureen P. Kelly

Re: ECF No. 2

**MEMORANDUM ORDER**

David Morris Barren (“Plaintiff”), is presently incarcerated and is a pro se litigant. The current civil action filed by Plaintiff, pending before this Court, was transferred here by the United States District Court for the District of Columbia. ECF No. 4. The transferring court did not address the pending Motion for Leave to Proceed In Forma Pauperis (the “IFP Motion”). ECF No. 2.

Plaintiff filed the IFP Motion in order to prosecute a prisoner civil rights complaint. After this civil rights action was transferred to this Court, the case was referred to United States

Magistrate Judge Maureen P. Kelly for pretrial proceedings in accordance with the Magistrate Judges Act, 28 U.S.C. § 636(b)(1), and Rule 72 of the Local Rules for Magistrate Judges. The Magistrate Judge's Report and Recommendation, ECF No. 6, was filed on February 19, 2019, and recommended that Plaintiff's IFP Motion be denied because Plaintiff has acquired three strikes and the Complaint does not reveal that Plaintiff is under imminent danger of serious physical injury. Service was made on the Plaintiff at his address of record, as well as at FCI-Loretto, the prison where the Report and Recommendation noted that the Federal Bureau of Prisons Inmate Locator says Plaintiff is currently housed. Plaintiff was initially given until March 8, 2019 by which to file objections. As no objections were filed by that date, this Court issued an Order on March 11, 2019 adopting the Report and Recommendation as the Opinion of the Court. ECF No. 7. The Court's Order was later vacated after Plaintiff filed a motion for an extension of time to file objections, and he was given until April 10, 2019 to file his objections. ECF 10. Plaintiff's objections dated April 8, 2019 were received by the Court on April 11, 2019 wherein he contests the Report and Recommendation's finding that he has three strikes and is not permitted to proceed IFP in this matter, because he has not alleged imminent danger of serious bodily injury. ECF No. 14. In the interim, Plaintiff moved to transfer the case back to the U.S. District Court for the District of Columbia and Magistrate Judge Kelly denied his motion on March 27, 2019. ECF 13.

After providing de novo review of the IFP Motion, the Report and Recommendation, and Plaintiff's Objections, the Court enters the following order:

**IT IS HEREBY ORDERED** that Plaintiff's IFP Motion [2] is DENIED;

**IT IS FURTHER ORDERED** that Plaintiff's Objections [14] are OVERRULED as this Court agrees with Magistrate Judge Kelly's analysis that the challenged actions all constitute strikes under 28 U.S.C. 1915(g)(2);

**IT IS FURTHER ORDERED** the Report and Recommendation [6], filed on February 19, 2019, by Magistrate Judge Kelly, is adopted as the opinion of the court; and,

**IT IS FURTHER ORDERED** that Plaintiff shall pay the entire filing fee of \$400.00 by **May 8, 2019** or the case will be dismissed without further warning for failure to prosecute.

By the Court:

*s/Nora Barry Fischer*  
Nora Barry Fischer  
United States District Judge

cc: The Honorable Maureen P. Kelly  
United States Magistrate Judge

DAVID MORRIS BARREN  
09803-068  
FCI-Loretto  
Federal Correctional Institution  
P.O. BOX 1000  
LORETTO, PA 15940